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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,017	01/21/2000	Christopher W Jones	CD96031	6602

60909 7590 09/17/2010
CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

EXAMINER

TRIMMINGS, JOHN P

ART UNIT	PAPER NUMBER
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2117

MAIL DATE	DELIVERY MODE
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09/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Cypress Semiconductor Corporation
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San Jose, CA 95134-1709

MAILED

SEP 16 2010

CENTRAL REEXAMINATION UNIT

In re Application of :
Christopher W. Jones : ORDER TO
Application No. 09/490,017 : SHOW CAUSE
Filed: January 21, 2000 :
Practitioner Docket No.: 016820.P168CR :

This is a show cause order based on the expiration of U.S. Patent No. 5,764,657, for which patent the present application requests reissue.

BACKGROUND

1. Reissue application No. 09/490,017 ("017 reissue application") was filed on January 21, 2000, for reissue of U.S. Patent No. 5,764,657 ("657 patent") issued June 9, 1998.
2. The Image File Wrapper record for the '017 reissue application reveals that a paper titled "Amendment and Response to Office Action" was filed on August 13, 2010, and that the prosecution of the application is not closed.
3. The Office's financial records reveal that the 11.5 year maintenance fee for the '657 patent due by June 9, 2010 (the end of the maintenance fee grace period), was not paid.
4. The '657 patent expired at midnight on June 9, 2010, for failure to pay the 11.5 year maintenance fee due.¹ Notice of the expiration of the '657 patent for failure to pay the 11.5 year maintenance fee was published on July 27, 2010, in the *Official Gazette*.²

ORDER TO SHOW CAUSE

As pointed out above, the '017 reissue application is for reissue of the '657 patent, and the '657 patent has expired for failure to pay the 11.5 year maintenance fee. A notice of the expiration of the '657 patent was published in the *Official Gazette*. Because the '657 patent expired for failure to pay the third maintenance fee, the Director of the USPTO

¹ See: MPEP § 2506, third paragraph.

² See: <http://www.uspto.gov/web/offices/com/sol/og/2010/week30/TOC.htm#ref3>.

no longer has the authority under 35 U.S.C. § 251 to reissue the '657 patent. See *In re Morgan*, 990 F.2d 1230, 26 USPQ2d 1392 (Fed. Cir. 1993). As stated in *Morgan*,

"The language of section 251 is unambiguous: the Commissioner has authority to reissue a patent only 'for the unexpired part of the term of the original patent.' Thus, **when Morgan's original patent expired on August 19, 1992, the Commissioner was divested of his reissue authority** because there no longer was an unexpired term of the patent for which Morgan's patent could be reissued. Morgan's appeal thus became moot." [990 F.2d at 1231, 26 USPQ2d at 1393; emphasis added]

Because the Director no longer has the authority under 35 U.S.C. § 251 to reissue the '657 patent, the Office intends to terminate the present reissue proceeding, and thereafter hold the '017 reissue application to be an abandoned application.

Applicant is hereby provided with a period of **30 DAYS** from the mailing of this ORDER to show cause why the Office should not terminate the present reissue proceeding.

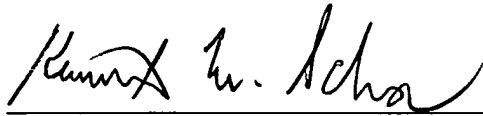
If applicant proposes to show cause why the present reissue proceeding should not be terminated, applicant's showing must include an explanation of why the proceeding should continue, in spite of the expiration of the original patent.

If applicant makes a showing, the showing will be evaluated as to whether it provides sufficient basis as to why the present reissue proceeding should not be terminated. A failure to respond to this show cause order within the set 30-day period will result in the proceeding being terminated by default. If the present reissue proceeding is terminated, jurisdiction over the present application for reissue of the '657 patent will be returned to Technology Center Art Unit 2117 for processing as an abandoned application.

CONCLUSION

1. Applicant is hereby provided with a period of 30 DAYS from the mailing of this ORDER to show cause why the Office should not terminate the present reissue proceeding.
2. Failure by applicant to respond to this show cause order within the set 30-day period will result in termination of the present reissue proceeding by default, followed by a mailing of a Notice of Abandonment of the '017 reissue application.
3. Jurisdiction over the '017 reissue application is being retained by the Office of Patent Legal Administration, pending a response by the applicant, or the expiration of time for a response.

4. Telephone inquiries related to this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

A handwritten signature in cursive script, appearing to read "Kenneth M. Schor", is written over a horizontal line.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

September 9, 2010